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C O N F I D E N T I A L SECTION 01 OF 02 HONG KONG 002211

SIPDIS

STATE FOR EAP/CM, STATE PASS CPSC RICHARD O'BRIEN

E.O. 12958: DECL: 12/05/2018
TAGS: [ECON](#) [EFIN](#) [EINV](#) [ETRD](#) [HK](#)
SUBJECT: U.S. PRODUCT SAFETY COMPLIANCE: BEARABLE FOR THE
BIG, SQUEEZING THE SMALL

REF: HONG KONG 1989

Classified By: Consul General Joseph Donovan for reasons 1.4 (b) and (d)
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¶1. (C) Summary: In discussions with a Congressional Staff Delegation to Hong Kong, Wal-Mart executives promised timely compliance with all regulatory requirements under the U.S. Consumer Product Safety Improvement Act (CPSIA) of 2008. They assured the Staffdel that all food products on the company's shelves are free from melamine. Smaller U.S. and Hong Kong-based companies, however, are less sanguine about their ability to fully comply with all CPSIA regulations. While those firms support the education and outreach efforts by the U.S. Consumer Products Safety Commission (CPSC), they said a CPSC official should be posted in Hong Kong full-time to assist CPSIA compliance efforts of firms operating in the Pearl River Delta (PRD) region. End summary.

¶2. (C) Comment: Our recent conversations with manufacturers, retailers and importers indicate a strong correlation between a company's size and the intensity of its complaints about the CPSIA's requirements. Smaller companies - especially those with no operations in the United States - face greater compliance difficulties and have been the most vocal critics of the CPSC's regulatory requirements. Their product safety procedures and regulatory compliance personnel are less sophisticated than those of larger firms, and their costs related to implementation of the CPSC's new regulations are spread over a smaller revenue base. Enactment of the CPSIA has therefore inadvertently provided the largest firms operating in Southeast China (e.g. Wal-Mart) with a competitive advantage. This will continue to be a contributing factor in the manufacturing consolidation process underway in the PRD (reftel). End comment.

Wal-Mart Confident About Its Food and Consumer Products

¶3. (C) During a December 4 meeting with U.S. House of Representatives Committee on Energy and Commerce senior investigators David Nelson and Krista Rosenthal, Wal-Mart procurement officials described the company's efforts in China to ensure food safety and compliance with the U.S. Consumer Product Safety Improvement Act (CPSIA) of 2008. Wal-Mart's Chief Operating Officer in Asia, Edwin Keh (protect), said the company "focused intensely" on the potential hazards of melamine in Chinese-produced food products, immediately after becoming aware of the issue in September 2008. He said, "We now test each shipment of food and food products with a dairy component that is on its way to America from China. We've also tested all the potentially affected products on our shelves that were shipped before the

story broke." Keh expressed confidence that Wal-Mart's stores in the U.S. and China now contain no food products with melamine. (Note: Wal-Mart currently owns 107 stores in mainland China, including three Sam's Clubs outlets. In addition, the company owns approximately 35 percent of a Taiwan-based superstore retailer (Trust-Mart) that operates over 100 outlets in China. Market analysts expect Wal-Mart to assume majority ownership of Trust-Mart by 2010 year-end. End note.)

¶4. (C) Wal-Mart's Shenzhen-based Vice President of Quality Assurance, Tony Judge (protect), told the StaffDel that Wal-Mart intends to ensure timely compliance with all regulations under the new CPSIA. He said Wal-Mart uses third-party laboratories for all its product safety testing, coupled with a large-scale physical inspection process that uses third-party examiners. Judge said his company will order more than 100 thousand individual inspections in 2008 of manufacturing operations owned by its mainland China-based suppliers. He said, "Our testing and inspection costs have risen dramatically this year. These are real and are truly resulting in price increases to all large retailers in America." Judge confirmed that Wal-Mart expects to achieve full compliance with all CPSIA regulations thus far promulgated by the U.S. Consumer Products Safety Commission (CPSC). He said, "We began gearing up for the CPSIA months before it was passed by Congress."

Other Companies Nervous About CPSIA Requirements

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¶5. (C) In contrast to Wal-Mart's confidence regarding the company's full compliance with the CPSIA, other manufacturers and importers voiced strong concerns about the law. At an AmCham-arranged gathering of 45 procurement professionals from U.S. and Hong Kong-based firms, corporate representatives told the StaffDel of their respective product safety compliance difficulties. Many said the CPSIA regulations lack sufficient clarity, and they requested further education and outreach efforts by the CPSC. A white paper produced for the StaffDel by the local AmCham recommended that the CPSC "permanently post in Hong Kong and/or China an officer solely or primarily responsible for product safety issues."

¶6. (SBU) A senior Hong Kong-based executive from a publicly traded U.S. importer of apparel and footwear told the StaffDel that his firm would "have difficulty" meeting the currently published compliance deadlines under the law. A senior procurement manager from a publicly traded U.S. retailer of sporting goods said the new law does not allow composite testing of finished products; it instead requires testing of individual product components. He cited the testing requirements for children's golf clubs as an example. He said the CPSC's regulations under the CPSIA require his firm to order 32 separate tests on the components of the clubs, resulting in a significantly increased cost basis for the final product purchased by consumers in the United States. He said, "Companies here are just now realizing what a bear the CPSIA is."

¶7. (SBU) Hong Kong-based toy manufacturers also expressed their concerns about the CPSIA. In a December 3 meeting with the StaffDel, the Chairman of the Hong Kong Toys Council, Lawrence Chan, said U.S. importers and retailers are forcing manufacturers in China to absorb much of the increased product testing costs. Reiterating earlier comments to us about the negative effects of product testing costs on manufacturers' profit margins, Chan said, "This is all we needed on top of the economic downturn."

¶8. (U) Staffdel Nelson did not have the opportunity to clear this cable.
DONOVAN